

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

03/08/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

M. Cearfoss
Deputy

LC 2001-000598

FILED: _____

STATE OF ARIZONA

SAMUEL K LESLEY

v.

CHARLES LOUIS SCHAFFER

JEREMY PHILLIPS

MINUTE ENTRY

This Court has received Appellant's Notice of Change of Judge.

IT IS ORDERED disallowing the Notice of Change of Judge pursuant to Rule 10.2, Arizona Rules of Criminal Procedure, for the reason that said rule has no application to this case.

Each party is entitled to a Notice of Change of Judge only where the appeal is a trial *de novo*. This case does not involve a trial *de novo*, but is rather an appeal based upon a record from the lower court. Rule 9.6, Maricopa County Superior Court Local Rules of Practice provides:

If the appeal is a trial *de novo*, each party may exercise one Notice of Change of Judge in a manner prescribed by Rule 42(f), Rules of Civil Procedure, or Rule 10, Rules of Criminal Procedure. This local rule does not apply to appeals on the record (emphasis added).

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In civil appeals, administrative appeals, domestic violence order of protection appeals, the parties would be entitled to a Notice of Change of Judge pursuant to rule 42(f), Arizona Rules of Civil Procedure, only where a trial *de novo* was granted. Similarly, the parties to a traffic or criminal appeal would be entitled to a change of judge pursuant to Rule 10.2, Arizona Rules of Criminal Procedure, when a trial *de novo* is granted in those cases. Neither party is entitled to an automatic change of judge in an appeal on the record.

IT IS ORDERED affirming oral argument re: appeal set for March 13, 2002, at 9:15 a.m.